U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

DATE: FEB 2 6 2013 OFFICE: TEXAS SERVICE CENTER

[redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a surgeon. At the time he filed the petition, the petitioner was a resident at the in New York. He subsequently undertook a fellowship at in Detroit, Michigan. U.S. Citizenship and Immigration Services (USCIS) records show that he now works for , Des Moines, Iowa. The petitioner's Form I-290B, Notice of Appeal shows a Des Moines address. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

On the Form I-290B, Notice of Appeal, counsel checked a box reading "My brief and/or additional evidence is attached." Counsel did not indicate that any future supplement would follow. Therefore, the initial appellate submission constitutes the entire appeal. The petitioner submitted no exhibits on appeal except for a copy of the denial notice.

Although framed as a rebuttal to the denial notice, almost all of the language in counsel's three-page appellate statement comes directly from counsel's earlier response to a February 12, 2012 request for evidence (RFE). For example, the first paragraph on page 5 of the RFE response began with this passage:

> We respectfully disagree with the assertion that [the petitioner's] voluminous publication history does not support the claim that he has established the ability to serve the national interest to a substantially greater extent than others in the field with the same minimal qualifications. We assert that no publications is the norm for Surgeons and [the petitioner's] publication rate is voluminous by any standard in comparison to Surgeons.

(Emphasis in original.) In the second page of the appellate statement, counsel prefaces exactly the same language, with the same emphasis and the same arbitrary capitalization of "Surgeon," with a brief reference to the denial notice:

> In the denial notification, USCIS notes regarding specific evidence *"While publications are useful, this is not unusual or different form [sic] other researchers who have had*

> *their work published."* We again respectfully disagree with the assertion that [the petitioner's] voluminous publication history does not support the claim that he has established the ability to serve the national interest to a substantially greater extent than others in the field with the same minimal qualifications. We assert that no publications is the norm for Surgeons and [the petitioner's] publication rate is voluminous by any standard in comparison to Surgeons.

(Counsel's emphasis.) The director, in the denial notice, had already taken the petitioner's response to the RFE into account. Counsel's repetition of the RFE response language does not rebut the director's findings or add anything of substance to the record. Significantly, counsel had previously placed great weight on the petitioner's research work (as opposed to his clinical practice as a surgeon). The director discussed publication in reference to the petitioner as a researcher, not as a surgeon. Counsel's observation that most surgeons are not researchers did not address the director's concerns as stated in the RFE, and the same observation, repeated on appeal, does not expose a flaw in the denial notice. Similarly, counsel, on appeal, contends that the director did not give sufficient consideration to the petitioner's participation in peer review or the citation of his published work, but the director addressed both of these factors in the denial notice.

The petitioner must articulate where the director erred in his decision. The repetition or recapitulation of previous assertions is not a sufficient basis for a substantive appeal. On appeal, counsel merely repeats prior assertions but does allege that the director failed to take those assertions into account previously; nor does the record support such an interpretation of the director's actions. As counsel does not allege any specific factual or legal errors on the part of the director and does not explain how the director failed to take the petitioner's previous evidence into consideration, the AAO will summarily dismiss the appeal.

ORDER: The appeal is dismissed.